

AMENDED IN SENATE JUNE 26, 2003

AMENDED IN SENATE JUNE 12, 2003

AMENDED IN ASSEMBLY MAY 1, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1338**

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**Introduced by Assembly Member Chavez  
(Coauthors: Assembly Members Benoit and Runner)**

February 21, 2003

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An act to amend Sections 18662 and 18668 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1338, as amended, Chavez. Personal income and bank and corporation taxes: real estate withholding requirements.

Existing law requires the transferee of a California real property interest, in specified circumstances, to withhold 3<sup>1</sup>/<sub>3</sub>% of the purchase price of the property when the property is acquired from either an individual or a corporation that has no permanent place of business in this state after the transfer.

This bill would provide that, instead of withholding 3<sup>1</sup>/<sub>3</sub>% of the sales price, the transferee, at the election of the transferor, may withhold that portion of the gain required to be recognized by the transferor that is determined by the highest marginal rate of the state personal income tax, *provided that the transferor executes a written certificate in a format prescribed by the Franchise Tax Board and estimates the taxable*

*gain resulting from the disposition of his or her California real property interest.* This bill would also revise withholding requirements for corporations with no permanent place of business in California to conform to the withholding requirements for individual transferors.

~~Existing law relieves a real estate escrow person, as defined by that law, from the liability for withholding if that person properly informs the transferee of the withholding requirements. Existing law also prohibits an assessment of penalty against the real estate escrow person, but not against the transferee, for failure to withhold if the transferor reports the gain on the sale of property and pays the proper amount of tax by the due date or extended due date of the tax return.~~

~~This bill would provide that a real estate escrow person and the transferee are jointly and severally liable for the withholding required by state law. This bill would also remove the prohibition on the assessment of a penalty against a real estate escrow person for failure to withhold properly where the transferor reports the gain on the sale and pays the proper amount of tax by the due date or extended due date of the tax return.~~

Existing law does not require withholding on any gain recognized by an individual transferor from the sale of his or her principal residence.

This bill would require withholding on the portion of any gain required to be recognized by an individual transferor from the sale of his or her principal residence that is not excluded under a specified provision of the Internal Revenue Code.

This bill would also exempt from withholding a transfer of a California real property interest held by an individual who is a general contractor licensed to operate as a sole proprietor, if the real property being transferred is held by the general contractor primarily for sale to customers in the contractor's trade or business of constructing and selling real property.

This bill would also clarify that transfers of real property to controlled corporations and partnerships as contributions to capital, and sales of a decedent's principal residence by estates, are not subject to these withholding requirements.

This bill would also authorize the Franchise Tax Board to administer the withholding procedures, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



*The people of the State of California do enact as follows:*

SECTION 1. Section 18662 of the Revenue and Taxation Code is amended to read:

18662. (a) The Franchise Tax Board may, by regulation, require any person, in whatever capacity acting (including lessees or mortgagors of real or personal property, fiduciaries, employers, and any officer or department of the state or any political subdivision or agency of the state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state), having the control, receipt, custody, disposal, or payment of items of income specified in subdivision (b), to withhold an amount, determined by the Franchise Tax Board to reasonably represent the amount of tax due when the items of income are included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at the time as it may designate.

(b) The items of income referred to in subdivision (a) are interest, dividends, rents, prizes and winnings, premiums, annuities, emoluments, compensation for services, including bonuses, partnership income or gains, and other fixed or determinable annual or periodical gains, profits, and income.

(c) The Franchise Tax Board may authorize the tax under subdivision (a) to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

(d) Any person failing to withhold from any payments any amounts required by subdivision (a) to be withheld is liable for the amount withheld or the amount of taxes due from the person to whom the payments are made to an extent not in excess of the amounts required to be withheld, whichever is greater, unless it is shown that the failure to withhold is due to reasonable cause.

(e) (1) This subdivision applies to any disposition of a California real property interest by:

(A) Any person, other than either of the following:

(i) A corporation, including an entity classified for tax purposes as a corporation under Part 11 (commencing with Section 23001).

(ii) A partnership, as determined in accordance with Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue

1 Code, including an entity classified as a partnership for tax  
2 purposes under Part 10 (commencing with Section 17001).

3 (B) A corporation, if the corporation immediately after the  
4 transfer of the title to the California real property has no permanent  
5 place of business in California. For purposes of this subdivision,  
6 a corporation has no permanent place of business in California if  
7 all of the following apply:

8 (i) It is not organized and existing under the laws of California.

9 (ii) It does not qualify with the office of the Secretary of State  
10 to transact business in California.

11 (iii) It does not maintain and staff a permanent office in  
12 California.

13 (2) (A) Except as provided in subparagraph (B), in the case of  
14 any disposition of a California real property interest by a transferor  
15 described in paragraph (1), the transferee (including for this  
16 purpose any intermediary or accommodator in a deferred  
17 exchange) or real estate escrow person is required to withhold an  
18 amount equal to  $3\frac{1}{3}$  percent of the sales price of the California real  
19 property conveyed.

20 (B) In the case where the transferor makes an election under  
21 this subparagraph, the transferee (including for this purpose any  
22 intermediary or accommodator in a deferred exchange) or real  
23 estate escrow person is required to withhold an amount equal to the  
24 amount the transferor specifies in a written certificate executed by  
25 the transferor, certifying under penalty of perjury, that the  
26 specified amount is an amount at least equal to the taxable or net  
27 gain required to be recognized under Part 10 (commencing with  
28 Section 17001) or Part 11 (commencing with Section 23001) on  
29 the disposition of the California real property, multiplied by the  
30 rate specified in Section 23151 (or Section 23186 for financial  
31 corporations) for transferor corporations and by the highest rate  
32 specified in Section 17041 for all other transferors.

33 (i) *The written certificate shall be in a simplified form, as*  
34 *prescribed by the Franchise Tax Board, to enable the transferor to*  
35 *estimate the amount of taxable gain realized by the transferor in*  
36 *the transaction. The form shall provide as follows:*  
37

38 *“Title, escrow, real estate licensees, and exchange*  
39 *accommodators are prohibited from completing this form for the*  
40 *transferor. Under California law, they are prohibited from giving*

1 *legal or accounting advice for purposes of calculating or*  
2 *estimating your tax liability. You are strongly advised to contract*  
3 *an attorney or accountant before completing this form.”*  
4

5 (ii) *The Franchise Tax Board shall provide this form on the*  
6 *board’s Web site in a format that allows a transferor to complete*  
7 *and file the form electronically.*

8 (3) Notwithstanding any other provision of this subdivision, all  
9 of the following shall apply:

10 (A) No transferee ~~or real estate escrow person~~ is required to  
11 withhold any amount under this subdivision unless the sales price  
12 of the California real property conveyed exceeds one hundred  
13 thousand dollars (\$100,000).

14 (B) No transferee (other than an intermediary or an  
15 accommodator in a deferred exchange) is required to withhold any  
16 amount under this subdivision unless written notification of the  
17 withholding requirements of this subdivision has been provided by  
18 the real estate escrow person.

19 (C) (i) No transferee ~~or real estate escrow person~~ is required to  
20 withhold under this subdivision when the transferee is a  
21 beneficiary under a mortgage or beneficiary under a deed of trust  
22 and the California real property is acquired in judicial or  
23 nonjudicial foreclosure or by a deed in lieu of foreclosure.

24 (ii) No transferee is required to withhold under this subdivision  
25 when the transferor is a bank acting as trustee other than a trustee  
26 of a deed of trust.

27 (D) No transferee (including for this purpose any intermediary  
28 or accommodator in a deferred exchange) ~~or real estate escrow~~  
29 ~~person~~ is required to withhold any amount under this subdivision  
30 if the transferee ~~or real estate escrow person~~, in good faith and  
31 based on all the information of which he or she has knowledge,  
32 relies on a written certificate executed by the transferor, certifying,  
33 under penalty of perjury, one of the following:

34 (i) (I) The California real property being conveyed is the  
35 seller’s or decedent’s principal residence (within the meaning of  
36 Section 121 of the Internal Revenue Code) and the transferor  
37 (including the estate of a decedent) intends to exclude from gross  
38 income all or a portion of the gain from the sale or exchange of the  
39 real property under Section 121 of the Internal Revenue Code.

1 (II) The last use of the property being conveyed was use by the  
2 transferor as the transferor's principal residence within the  
3 meaning of Section 121 of the Internal Revenue Code, without  
4 regard to the period of that use.

5 (ii) (I) The California real property being conveyed is being  
6 exchanged, or will be exchanged, for property of like kind (within  
7 the meaning of Section 1031 of the Internal Revenue Code), but  
8 only to the extent of the amount of the gain not required to be  
9 recognized for California income or franchise tax purposes under  
10 Section 1031 of the Internal Revenue Code.

11 (II) Subclause (I) may not apply if an exchange does not qualify  
12 for nonrecognition treatment for California income or franchise  
13 tax purposes under Section 1031 of the Internal Revenue Code, in  
14 whole or in part, due to the failure of the transaction to comply with  
15 the provisions of Section 1031(a)(3) of the Internal Revenue Code,  
16 relating to the requirement that property be identified and that the  
17 exchange be completed not more than 180 days after the transfer  
18 of the exchanged property.

19 (III) In any case where clause (ii) applies, the transferee  
20 (including for this purpose any intermediary or accommodator in  
21 a deferred exchange) ~~or real estate escrow person~~ is required to  
22 notify the Franchise Tax Board in writing within 10 days of the  
23 expiration of the statutory periods specified in Section 1031(a)(3)  
24 of the Internal Revenue Code and thereafter remit the applicable  
25 withholding amounts determined under this subdivision in  
26 accordance with paragraph (4). *The amount required to be*  
27 *withheld by an intermediary or accommodator in a deferred*  
28 *exchange may not exceed 3<sup>1</sup>/<sub>3</sub> percent of any cash actually*  
29 *transferred by the intermediary or accommodator to the transferor*  
30 *in connection with that deferred exchange.*

31 (iii) The California real property has been compulsorily or  
32 involuntarily converted (within the meaning of Section 1033 of the  
33 Internal Revenue Code) and the transferor intends to acquire  
34 property similar or related in service or use so as to be eligible for  
35 nonrecognition of gain for California income tax purposes under  
36 Section 1033 of the Internal Revenue Code.

37 (iv) The transferor is an individual who is a general contractor  
38 licensed to operate as a sole proprietor, and the real property, prior  
39 to the transfer, was held by the transferor primarily for sale to

1 customers in the ordinary course of the transferor's trade or  
2 business of constructing and selling real property.

3 (v) The transaction will result in either a net loss or a net gain  
4 not required to be recognized for California income or franchise  
5 tax purposes.

6 (vi) The transferor is a corporation with a permanent place of  
7 business in California.

8 (E) (i) In the case of any transaction otherwise subject to this  
9 subdivision that qualifies as an "installment sale" (within the  
10 meaning of Section 453(b) of the Internal Revenue Code) for  
11 California income tax purposes, the provisions of this subdivision  
12 may, upon the irrevocable written election of the transferee, be  
13 separately applied to each principal payment to be made under the  
14 terms of the installment sale agreement between the parties.

15 (ii) For purposes of clause (i), subparagraph (A) of paragraph  
16 (3) does not apply to each individual payment to be received under  
17 the terms of the installment sale agreement.

18 (iii) The election under this subparagraph shall be made at the  
19 time, and in the form and manner, specified by the Franchise Tax  
20 Board in forms and instructions, except that the form shall, at a  
21 minimum, include the requirement specified in clause (iv) of this  
22 subparagraph.

23 (iv) The election under this subparagraph is valid only if the  
24 transferee agrees to withhold and remit from each installment  
25 payment the amount specified under this subdivision in the form  
26 and manner, and at the time, specified in paragraph (4).

27 (4) (A) Amounts withheld and payments made in accordance  
28 with this subdivision shall be reported and remitted to the  
29 Franchise Tax Board in the form and manner and at the time  
30 specified by the Franchise Tax Board.

31 (B) The transferor shall submit a copy of the written certificate  
32 specified in subparagraph (D), executed by the transferor, and  
33 supporting documentation for the reduced withholding to the  
34 Franchise Tax Board upon request.

35 (5) For purposes of this subdivision, "California real property  
36 interest" means an interest in real property located in California  
37 and defined in Section 897(c)(1)(A)(i) of the Internal Revenue  
38 Code.



1 (6) For purposes of this subdivision, “real estate escrow  
2 person” means any of the following persons involved in the real  
3 estate transaction:

4 (A) The person (including any attorney, escrow company, or  
5 title company) responsible for closing the transaction.

6 (B) If no person described in subparagraph (A) is responsible  
7 for closing the transaction, then any other person who receives and  
8 disburses the consideration or value for the interest or property  
9 conveyed.

10 (7) (A) Unless the real estate escrow person provides  
11 “assistance,” it shall be unlawful for any real estate escrow person  
12 to charge any customer for complying with the requirements of  
13 this subdivision.

14 (B) For purposes of this paragraph, “assistance” includes, but  
15 is not limited to, helping the parties clarify with the Franchise Tax  
16 Board the issue of whether withholding is required under this  
17 subdivision or, upon request of the parties, withholding an amount  
18 under this subdivision and remitting that amount to the Franchise  
19 Tax Board.

20 (C) For purposes of this paragraph, “assistance” does not  
21 include providing the written notification of the withholding  
22 requirements of this subdivision.

23 (D) In a case where the real estate escrow person provides  
24 “assistance” in complying with the withholding requirements of  
25 this subdivision, it shall be unlawful for the real estate escrow  
26 person to charge any customer a fee that exceeds forty-five dollars  
27 (\$45).

28 (8) For purposes of this subdivision, “sales price” means the  
29 sum of all of the following:

30 (A) The cash paid, or to be paid, but excluding for this purpose  
31 any stated or unstated interest or original issue discount (as  
32 determined under Sections 1271 through 1275, inclusive, of the  
33 Internal Revenue Code).

34 (B) The fair market value of other property transferred, or to be  
35 transferred.

36 (C) The outstanding amount of any liability assumed by the  
37 transferee or to which the California real property interest is  
38 subject immediately before and after the transfer.

39 (9) The Franchise Tax Board may prescribe, by forms,  
40 instructions, published notices, or regulations, any requirements



1 necessary for the efficient administration of this subdivision,  
2 including de minimus requirements for the application of this  
3 subdivision, guidelines, and procedures.

4 (10) Chapter 3.5 (commencing with Section 11340) of Part 1  
5 of Division 3 of Title 2 of the Government Code does not apply to  
6 any standard, criterion, procedure, determination, rule, notice, or  
7 guideline adopted, established, or issued by the Franchise Tax  
8 Board pursuant to paragraph (9).

9 (f) Whenever any person has withheld any amount pursuant to  
10 this section, the amount so withheld shall be held in trust for the  
11 State of California. The amount of the fund shall be assessed,  
12 collected, and paid in the same manner and subject to the same  
13 provisions and limitations (including penalties) as are applicable  
14 with respect to the taxes imposed by Part 10 (commencing with  
15 Section 17001), Part 11 (commencing with Section 23001), or this  
16 part.

17 (g) Withholding is not required under this section with respect  
18 to wages, salaries, fees, or other compensation paid by a  
19 corporation for services performed in California for that  
20 corporation to a nonresident corporate director for director  
21 services, including attendance at a board of directors' meeting.

22 (h) In the case of any payment described in subdivision (g), the  
23 person making the payment shall do each of the following:

24 (1) File a return with the Franchise Tax Board at the time and  
25 in the form and manner specified by the Franchise Tax Board.

26 (2) Provide the payee with a statement at the time and in the  
27 form and manner specified by the Franchise Tax Board.

28 (i) (1) The amendments to this section made by Chapter 488  
29 of the Statutes of 2002 apply to dispositions of California real  
30 property interests that occur on or after January 1, 2003.

31 (2) In the case of any payments received on or after January 1,  
32 2003, pursuant to an installment sale agreement relating to a  
33 disposition occurring before January 1, 2003, the amendments to  
34 this section made by Chapter 488 of the Statutes of 2002 do not  
35 apply to those payments.

36 SEC. 2. Section 18668 of the Revenue and Taxation Code is  
37 amended to read:

38 18668. (a) Every person required under this article to deduct  
39 and withhold any tax is hereby made liable for that tax, to the  
40 extent provided by this section and, insofar as they are not

1 inconsistent with this article, all the provisions of this part relating  
2 to penalties, interest, assessment, and collections shall apply to  
3 persons subject to this part, and for these purposes any amount  
4 required to be deducted and paid to the Franchise Tax Board under  
5 this article shall be considered the tax of the person. Any person  
6 who fails to withhold from any payments any amount required to  
7 be withheld under this article is liable for the amount withheld or  
8 the amount of taxes due from the taxpayer to whom the payments  
9 are made but not in excess of the amount required to be withheld,  
10 whichever is more, unless it is shown that the failure to withhold  
11 is due to reasonable cause.

12 (b) If any amount required to be withheld under this article is  
13 not paid to the Franchise Tax Board on or before the due date  
14 required by regulations, interest shall be assessed at the adjusted  
15 annual rate established pursuant to Section 19521, computed from  
16 the due date to the date paid.

17 (c) Whenever any person has withheld any amount pursuant to  
18 this article, the amount so withheld shall be held to be a special  
19 fund in trust for the State of California.

20 (d) In lieu of the amount provided for in subdivision (a), unless  
21 it is shown that the failure to withhold is due to reasonable cause,  
22 whenever any transferee is required to withhold any amount  
23 pursuant to subdivision (e) of Section 18662, the transferee is  
24 liable for the greater of the following amounts for failure to  
25 withhold only after the transferee, as specified, is notified in  
26 writing of the requirements under subdivision (e) of Section  
27 18662:

28 (1) Five hundred dollars (\$500).

29 (2) Ten percent of the amount required to be withheld under  
30 subdivision (e) of Section 18662.

31 (e) (1) ~~Notwithstanding subdivision (d), unless~~ Unless it is  
32 shown that the failure to notify is due to reasonable cause, ~~only~~ the  
33 real estate escrow person is liable for the amount specified in  
34 subdivision (d), when written notification of the withholding  
35 requirements of subdivision (e) of Section 18662 is not provided  
36 to the transferee (other than a transferee that is an intermediary or  
37 accommodator in a deferred exchange) and the California real  
38 property disposition is subject to withholding under subdivision  
39 (e) of Section 18662.

(2) The real estate escrow person shall provide written notification to the transferee (other than a transferee that is an intermediary or accommodator in a deferred exchange) in substantially the same form as follows:

“In accordance with Section 18662 of the Revenue and Taxation Code, a buyer may be required to withhold an amount equal to  $3\frac{1}{3}$  percent of the sales price or the amount that is specified in a written certificate issued by the transferor in the case of a disposition of California real property interest by either:

1. A seller who is an individual, trust, or estate or when the disbursement instructions authorize the proceeds to be sent to a financial intermediary of the seller, OR

2. A corporate seller that has no permanent place of business in California immediately after the transfer of title to the California real property.

The buyer may become subject to penalty for failure to withhold an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500).

However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if:

1. The sales price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000), OR

2. The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a corporation with a permanent place of business in California, OR

3. The seller, who is an individual, trust, estate or a corporation without a permanent place of business in California executes a written certificate, under the penalty of perjury, of any of the following:

A. The California real property being conveyed is the seller’s or decedent’s principal residence (within the meaning of Section 121 of the Internal Revenue Code) and the transferor (including the estate of a decedent) intends to exclude from gross income all or a portion of the gain from the sale or exchange of the real property under Section 121 of the Internal Revenue Code.

B. The last use of the property being conveyed was use by the transferor as the transferor’s principal residence within the

1 meaning of Section 121 of the Internal Revenue Code, without  
2 regard to the period of that use.

3 C. The California real property being conveyed is held by an  
4 individual who is a general contractor licensed to operate as a sole  
5 proprietor and the real property, prior to the transfer, is held by the  
6 transferor primarily for sale to customers in the ordinary course of  
7 the transferor's trade or business of constructing and selling real  
8 property.

9 D. The California real property being conveyed is or will be  
10 exchanged for property of like kind (within the meaning of Section  
11 1031 of the Internal Revenue Code), but only to the extent of the  
12 amount of gain not required to be recognized for California  
13 income tax purposes under Section 1031 of the Internal Revenue  
14 Code.

15 E. The California real property has been compulsorily or  
16 involuntarily converted (within the meaning of Section 1033 of the  
17 Internal Revenue Code) and that the seller intends to acquire  
18 property similar or related in service or use so as to be eligible for  
19 nonrecognition of gain for California income tax purposes under  
20 Section 1033 of the Internal Revenue Code.

21 F. The California real property transaction will result in a loss  
22 or a net gain not required to be recognized for California income  
23 tax purposes.

24 The seller is subject to penalty for knowingly filing a fraudulent  
25 certificate for the purpose of avoiding the withholding  
26 requirement.”

27  
28 ~~(3) The real estate escrow person and the transferee are not~~

29 *(3) The real estate escrow person is not liable under this*  
30 *subdivision if the tax due as a result of the disposition of California*  
31 *real property is paid by the original or extended due date of the*  
32 *transferor's return for the taxable year in which the disposition*  
33 *occurred.*

34 *(4) The transferee is not liable under paragraph (1) or*  
35 *subdivision (d), if the failure to withhold is the result of the real*  
36 *estate escrow person's his or her reliance, based on good faith and*  
37 *on all the information of which he or she has knowledge, upon a*  
38 *written certificate executed by the transferor under penalty of*  
39 *perjury certifying to any of the following:*

1 ~~(A) Where the transferor is an individual, trust, estate, or a~~  
2 ~~corporation without a permanent place of business in California:~~

3 ~~(i) (I) The California real property being conveyed is the~~  
4 ~~seller's or decedent's principal residence (within the meaning of~~  
5 ~~Section 121 of the Internal Revenue Code) and the transferor~~  
6 ~~(including the estate of a decedent) intends to exclude from gross~~  
7 ~~income all or a portion of the gain from the sale or exchange of the~~  
8 ~~real property under Section 121 of the Internal Revenue Code.~~

9 ~~(II) The last use of the property being conveyed was use by the~~  
10 ~~transferor as the transferor's principal residence within the~~  
11 ~~meaning of Section 121 of the Internal Revenue Code, without~~  
12 ~~regard to the period of that use.~~

13 ~~(ii) The California real property being conveyed is held by an~~  
14 ~~individual who is a general contractor licensed to operate as a sole~~  
15 ~~proprietor and the real property, prior to the transfer, is held by the~~  
16 ~~transferor primarily for sale to customers in the ordinary course of~~  
17 ~~the transferor's trade or business of constructing and selling real~~  
18 ~~property.~~

19 ~~(iii) That the California real property being conveyed is or will~~  
20 ~~be exchanged for property of like kind within the meaning of~~  
21 ~~Section 1031 of the Internal Revenue Code, but only to the extent~~  
22 ~~of the amount of gain not required to be recognized for California~~  
23 ~~income tax purposes under Section 1031 of the Internal Revenue~~  
24 ~~Code.~~

25 ~~(iv) That the California real property has been compulsorily or~~  
26 ~~involuntarily converted, within the meaning of Section 1033 of the~~  
27 ~~Internal Revenue Code, and that the seller intends to acquire~~  
28 ~~property similar or related in service or use so as to be eligible for~~  
29 ~~nonrecognition of gain for California income tax purposes under~~  
30 ~~Section 1033 of the Internal Revenue Code.~~

31 ~~(v) That the California real property transaction will result in~~  
32 ~~a net loss or gain that is not required to be recognized for California~~  
33 ~~income tax purposes.~~

34 ~~(B) Where the transferor is a corporation, that the transferor is~~  
35 ~~a corporation with a permanent place of business in California:~~

36 ~~(4) pursuant to subparagraph (B) of paragraph (2) or~~  
37 ~~subparagraph (D) of paragraph (3) of subdivision (e) of Section~~  
38 ~~18662.~~

39 ~~(5) Any transferor who for the purpose of avoiding the~~  
40 ~~withholding requirements of subdivision (e) of Section 18662~~

1 knowingly executes a false certificate pursuant to ~~this subdivision~~  
2 *that section* is liable for twice the amount specified in subdivision  
3 (d).

4 (f) The amount of tax required to be deducted and withheld  
5 under this article shall be assessed, collected, and paid in the same  
6 manner and subject to the same provisions and limitations  
7 (including penalties) as are applicable with respect to the taxes  
8 imposed by Part 10 (commencing with Section 17001) or Part 11  
9 (commencing with Section 23001).

10 SEC. 3. (a) Except as provided in subdivision (b), the  
11 amendments made to Sections 18662 and 18668 of the Revenue  
12 and Taxation Code by this act shall apply to dispositions of  
13 California real property interests occurring on or after January 1,  
14 2004.

15 (b) The amendments made by this act with respect to  
16 installment payments shall apply to installment payments received  
17 on or after January 1, 2004, for sales occurring on or after January  
18 1, 2003.

